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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

DARREN MARK LEGRAND

APPLICATION NO: 10/568,486

FILED: FEBRUARY 15, 2006

FOR: 1,3 DISUBSTITUTED AZETIDINE DERIVATIVES FOR USE AS  
CCR-3 RECEPTOR ANTAGONISTS IN THE TREATMENT OF  
INFLAMMATORY AND ALLERGIC DISEASES

**MS: Amendment**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

This paper is being filed in response to the Office Action mailed March 4, 2009, requiring restriction under 35 U.S.C. § 121. The Office Action set a shortened statutory period for reply of one month from the mailing date of the communication. A one month extension of time petition is included herewith.

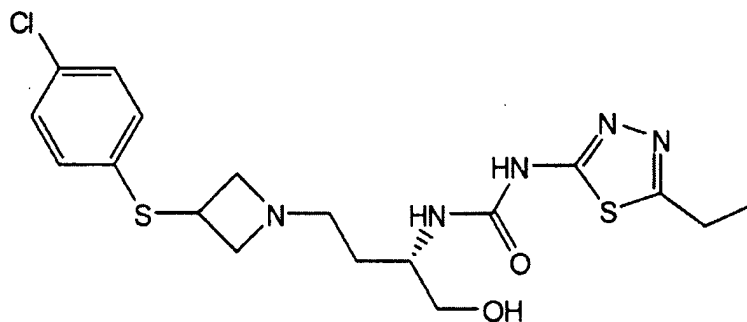
Claims 11-20 are pending in this Application.

An election under 35 U.S.C. § 121 has been required to the subject matter of:

- Group (I)      Claims 11-17 drawn to compounds of formula (Ia), classified in various subclasses of 514, 540, 544, 546, 548, and 549. An election of species (compound) is required for this group.
- Group (II)     Claims 18-19 drawn to a method of treatment using a compound of formula (Ia). preventing or treating bone conditions by administering a compound of formula I. An election of species (compound and disease) is also required for this group.
- Group (III)    Claim 20 drawn to a process of making a compound of formula (Ia).

As an initial matter, Applicants note that the compounds of claim 11 represented by formula (Ib) have not been classified into a Group of the restriction requirement. Applicants respectfully request rejoinder of these compounds into the scope of Group I. Compounds of Formula Ia and Formula Ib should be searchable together without undue burden.

In response to the Restriction Requirement, Applicants provisionally elect, *with traverse*, the invention of Group I, claims 11-17, drawn to compounds of formula Ia. In response to the election of species, Applicants provisionally elect the following species to assist the Examiner in searching: 1-((S)-3-[3-(4-chloro-phenylsulfanyl)-azetidin-1-yl]-1-hydroxymethyl-propyl)-3-(5-ethyl-[1,3,4]thiadiazol-2-yl)-urea, a compound of formula Ia with the following structure



The elected species reads on claims 11-17. In particular, in claim 11 the elected species is obtained where Ar is phenyl substituted with chloro, X<sub>1</sub> is -S-, m is 2, R<sub>1</sub> is C<sub>1</sub>-C<sub>8</sub>alkyl substituted with hydroxy, Y is oxygen, R<sup>2</sup> is hydrogen, and R<sup>3</sup> is a heterocyclic group having 5 ring atoms of which three are heteroatoms. In claim 14, the elected species is the seventh compound of the Markush list.

Applicants request rejoinder of the subject matter of Groups II and III commensurate in scope to the claims of Group I upon allowance of the elected claims.

Applicants expressly reserve the right to file divisional applications directed to the non-elected subject matter. It is respectfully requested that the restriction requirement be favorably reconsidered and withdrawn.

The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this response.

Respectfully submitted,

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